

**ORDINANCE NO. 1116 – 2020**

**AN ORDINANCE OF THE CITY OF MIAMI SPRINGS, FLORIDA, GRANTING A NON-EXCLUSIVE FRANCHISE TO PIVOTAL UTILITY HOLDINGS, INC., A NEW JERSEY CORPORATION D/B/A FLORIDA CITY GAS FOR USE OF CITY OF RIGHTS OF WAY FOR THE CONSTRUCTION, MAINTENANCE, OPERATION, AND EXTENSION OF GAS LINES AND PROVISIONS OF GAS IN THE CITY; APPROVING A NON-EXCLUSIVE FRANCHISE AGREEMENT PRESCRIBING THE TERMS AND CONDITIONS UNDER WHICH SAID FRANCHISE MAY BE EXERCISED; AUTHORIZING THE CITY MANAGER TO FINALIZE AND EXECUTE SAID FRANCHISE AGREEMENT; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the City of Miami Springs (the “City”) finds that it continues to be in the public interest to ensure that all areas within its limits are adequately provided with high-quality and reliable gas service; and

**WHEREAS**, the City finds it in the public interest to retain control over the use of public rights-of-way by providers of gas to ensure against interference with the public convenience, to promote aesthetic considerations, to promote planned and efficient use of limited right-of-way space, and to protect the public investment of right-of-way property; and

**WHEREAS**, the City finds that the granting of nonexclusive franchises is the best means of assuring that the above-described interests of the City are promoted; and

**WHEREAS**, the City Council desires to continue to grant Pivotal Utility Holdings, Inc., a New Jersey Corporation d/b/a Florida City Gas (the “Company”) a franchise to provide gas in and for the City, pursuant to a new franchise agreement referenced herein and approved hereby.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The foregoing recitals are confirmed, adopted, and incorporated herein and made a part hereof by this reference.

**Section 2. Grant of Franchise; Approval of Franchise Agreement; Authorization.** Pivotal Utility Holdings, Inc., a New Jersey Corporation d/b/a Florida City Gas is hereby granted a nonexclusive franchise for the provision of natural gas via use of

the public rights of way of the City. The non-exclusive franchise agreement by and between the Company and the City, attached hereto as Exhibit "A" (the "Franchise Agreement"), which is incorporated herein and made a part hereof by this reference, is hereby approved. The City Manager is authorized to finalize and execute the Franchise Agreement in furtherance hereof, subject to approval by the City Attorney as to form and legal sufficiency.

**Section 3.** **Inclusion In Code.** This Ordinance shall be codified as part of the Appendix of the City Code.

**Section 4.** **Implementation.** The City Manager, City Clerk, and City Attorney are hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions as may be appropriate by their position to execute the purpose of this Ordinance.

**Section 5.** **Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 6.** **Conflicts.** All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

**Section 7.** **Effective Date.** This Ordinance shall become effective immediately upon adoption.

**PASSED ON FIRST READING** this 9th day of December, 2019, on a motion made by Councilman Best and seconded by Councilman Petralanda.

**PASSED AND ADOPTED ON SECOND READING** this 13th day of January, 2020, on a motion made by Councilman Best and seconded by Vice Mayor Mitchell.

Vice Mayor Maria Puente Mitchell	<u>YES</u>
Councilman Bob Best	<u>YES</u>
Councilwoman Mara Zapata	<u>YES</u>
Councilman Jaime Petralanda	<u>YES</u>
Mayor Billy Bain	<u>YES</u>



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BILLY BAIN, MAYOR

ATTEST:



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ERIKA GONZALEZ-SANTAMARIA, MMC  
CITY CLERK



APPROVED AS TO FORM AND LEGAL SUFFICIENCY  
FOR THE USE AND RELIANCE OF THE CITY OF MIAMI SPRINGS ONLY:



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WEISS, SEROTA, HELFMAN, COLE & BIERMAN, P.L.  
CITY ATTORNEY